

Report Proposes Changes in Rules for Out-of-State Lawyers

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In a preliminary report released on August 1, a task force appointed by the California Supreme Court proposes easing certain restrictions on in-state law practice by out-of-state lawyers.

The Supreme Court is responsible for regulating and disciplining attorneys who practice law in California. Under the current rules, out-of-state lawyers must pass the California bar exam, among other requirements, before practicing law in this state. The Supreme Court's Advisory Task Force on Multi-jurisdictional Practice proposes changes that would allow four categories of out-of-state lawyers to practice here, in defined circumstances, without passing the state bar exam.

“The report is an important first step in the process of reforming multijurisdictional practice,” says San Francisco attorney Raymond Marshall, chair of the task force. “We are now circulating the report for comment and look forward to input from the state’s legal community.”

Since its appointment by the Supreme Court in January 2001, the task force has studied whether and under what circumstances attorneys licensed to practice law in U.S. jurisdictions other than California should be permitted to practice law in this state. The task force recommends changes that would permit the following four categories of lawyers to practice in California in defined circumstances:

► **In-house counsel** providing out-of-court legal services exclusively for a single, full-time business entity employer (e.g., a corporation or partnership) that does not provide legal services to third parties.

► **Public interest lawyers** providing legal services to indigent clients on an interim basis before taking the California bar exam, under the supervision of an experienced member of the State Bar.

► **Transactional and other nonlitigating lawyers** providing legal services in California on a temporary and occasional basis.

► **Litigating lawyers** providing legal services in California in anticipation of filing a lawsuit in California or as part of litigation pending in another jurisdiction.

The task force also recommends two basic approaches for determining how out-of-state lawyers should be permitted to provide legal services in California:

► **Registration** would be similar to admission to the State Bar of California but would not require an attorney to pass the California bar exam. It would permit an attorney who is li-

censed and in good standing in another jurisdiction in the United States to practice law in California. The task force recommends this approach for in-house counsel who reside in California and are employed by business entities and for public interest lawyers during an interim period before they take the California bar exam.

► **Changes in the definition of “unauthorized practice of law”** would allow out-of-state attorneys to undertake a specified task without violating California law. This approach—often called a “safe harbor”—would apply when an attorney’s involvement in California is too brief or too infrequent to warrant the time and expense that registration would require.

DEVELOPING THE RECOMMENDATIONS

The Supreme Court created its Advisory Task Force on Multi-jurisdictional Practice in response to Senate Bill 1782, which was introduced during last year's legislative session by Senator Bill Morrow. As introduced, the bill would have permitted an attorney to practice in California if he or she was licensed to practice in another jurisdiction, had been practicing for three years, and was in good standing with his or her state's bar.

However, many involved in the court system expressed concern about whether SB 1782 would ensure that Californians are served by qualified lawyers whose conduct is subject to appropriate regulation. Senator Morrow then amended the bill, and the final version adopted by the Legislature requested that the Supreme Court adopt rules permitting the admission of attorneys licensed in other states if those states afford reciprocity to attorneys licensed in California. Recognizing that the issue of reciprocal admission is complex, the revised bill directed the state's high court to appoint a group "to study and make recommendations regarding whether and under what circumstances attorneys who are licensed to practice law in other states . . . may be permitted to practice law in California."

The members of the task force represent many different perspectives on the law. They include civil and criminal litigators, private and public attorneys, transactional as well as trial counsel, and laypersons. This diversity is intentional and is meant to help the task force consider the interests of a variety of individuals involved in the legal system who might be affected by any changes in the rules governing the multijurisdictional practice of law.

In developing its recommendations, the task force considered these factors:

- ☐ The attorney's years of practice;
- ☐ The attorney's admission to practice law in other states;
- ☐ Specialization of the attorney's practice in another state;
- ☐ The attorney's intended scope of practice in California;
- ☐ The admission requirements in the state or states in which the attorney has been licensed to practice law;
- ☐ Reciprocity and comity with other states;
- ☐ Moral character requirements;
- ☐ Disciplinary implications; and
- ☐ Consumer protection.

The task force is circulating its report for public comment until September 28 and will then meet to address the ideas and concerns expressed in the comments it receives. It anticipates submitting a final report with recommendations to the Supreme Court by the end of the year.

Even if the California Supreme Court were to adopt the task force's final recommendations, additional work would remain, since the rules on multi-jurisdictional practice would need to be revised. The task force was not charged with drafting specific language that would give effect to each of its recommendations. In addition, in certain instances it reached consensus on a general approach but did not resolve the issues that would affect implementation.

● A full copy of the report is available on the California Courts Web site at www.courtinfo.ca.gov, under “Invitations to Comment.” ■

Access to Visitation Grants Awarded

In August, the Judicial Council's Family and Juvenile Law Advisory Committee and Executive and Planning Committee approved the allocation of approximately \$800,000 in fiscal year 2001–2002 Access to Visitation Grant funding to 14 superior courts representing 28 counties. The Access to Visitation Grant Program, which is administered by the Administrative Office of the Courts' Center for Families, Children & the Courts, helps courts establish and run programs that provide education for parents on protecting children during family disruption, group counseling for parents and children, supervised visitation, and neutral drop-off and exchange services.

The goals of the program are to increase nonresidential parents' access to their children and to ensure the health, safety, welfare, and best interest of those children. The program seeks to improve the quality of parent-child relationships by expanding the scope and availability of support services for families with children who have been or are now in family courts.

In 1996 Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (section 469B of the Social Security Act), which required the federal government to make funds available to states for the establishment of programs that support and facilitate noncustodial parents' visitation and access to their children. The funds are distributed through federal grants awarded by the U.S. Department of Health and Human Services. Since their inception, the grants have funded a variety of state programs, including those involving mediation (both voluntary and mandatory), parent and child counseling and education, and assistance in the development of parenting plans and guidelines for visitation.

● For more information about the Access to Visitation Grant Program, contact Shelly Danridge, Access to Visitation Grant Coordinator, 415-865-7565; e-mail: shelly.danridge@jud.ca.gov.

The following superior courts have been awarded fiscal year 2001–2002 Access to Visitation Grants.	Contra Costa—\$30,000	San Diego—\$47,500
	Los Angeles—\$80,000	San Francisco—\$80,000
	Mendocino—\$80,000	Santa Barbara—\$80,000
	Merced—\$30,000	Santa Clara—\$80,000
	Napa—\$30,000	Shasta—\$80,000
	Sacramento—\$55,000	Sonoma—\$30,000
	San Bernardino—\$67,500	Tulare—\$30,000

Supreme Court Adopts New Conflict-of-Interest Procedures

The California Supreme Court has adopted additional procedures to help justices determine whether they should recuse themselves from a particular matter because of a conflict of interest.

News articles and inquiries from parties alerted the justices to problems in the court's existing conflict screening processes. The court convened an internal committee to study existing procedures and make recommen-

dations for changes that would improve the justices' ability to identify potential conflicts of interest and take appropriate action.

In formulating its recommendations, the internal committee reviewed operations in (1) the Clerk's Office, including the internal Calendar Coordination Office, which is responsible for the circulation of materials within the court; (2) the court's central staffs, which assist the court by preparing conference memoranda on most matters considered by the court at its Wednesday petition conferences; and (3) the justices' chambers.

INTERNAL MEASURES

The court considered and adopted a variety of new procedures that have been or are in the process of being implemented:

- The court's computer system has been examined. Deficiencies that led to incomplete identification of conflicts have been remedied to the extent possible, and additional measures to improve the usefulness of the system are being pursued.
- In chambers, the justices are working closely and more

systematically with their personal staffs to identify conflicts based on the justices' financial holdings and to keep track of declared conflicts.

- The court's central staffs have been directed to include more detailed information about parties and other case participants in the conference memoranda they prepare for the court.

- The Clerk's Office, including the Calendar Coordination Office, and the central staffs have begun to check for potential conflicts of interest both electronically and manually, and will consult with the justices' staffs concerning recusal in individual matters.

- The Clerk's Office will maintain a master list of identified conflicts based on the justices' *Statements of Economic Interests*, which already are on file in that office, and on additional information provided by the justices.

- The court's orders following conference will indicate whether a justice did not participate in a particular matter and, if so, whether the reason for nonparticipation was recusal or absence.

The Supreme Court staffs are scheduled to evaluate the new procedures this fall to determine their effectiveness and whether additional changes are necessary. ■

Instituting Practices

In addition to new internal measures to advise California Supreme Court justices on whether they should recuse themselves from a particular matter because of a conflict of interest, the court adopted or revised the following provisions of the court's Internal Operating Practices and Procedures (IOPPs).

- A new IOPP provides that, whenever review has been granted in a civil case or in a criminal case involving a corporate entity, the court clerk will direct the parties of record in the case to file a document identifying all parties and related interests (including, for example, parent and subsidiary corporations).
- In order to clarify conference records, the court adopted a new IOPP specifying that a justice who anticipates being unable to attend

an upcoming Wednesday petition conference may leave instructions for his or her votes on some or all of the matters to be considered. This IOPP describes a long-standing practice within the court. A justice's decision to "leave votes" typically is affected by the timing of his or her departure in relation to the timing of the distribution of the conference list, related petitions, and related memoranda.

- The court adopted a new IOPP indicating that, when time is of the essence, the court may consider a petition outside of conference, and in such cases it will file an order as soon as four votes are cast for a particular disposition. This IOPP too describes a long-standing practice of the court.

Orange County

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completed two trials in the new facility.

"Overall, we are extremely pleased with the new courtrooms," says Judge William F. McDonald, who serves as the supervising judge for the county's complex civil cases. "The parties also seem to be appreciative of the technological conveniences the facility affords. By October we anticipate putting an e-filing system in place so attorneys can file their complex cases over the Internet."

CREATION OF THE CIVIL COMPLEX CENTER

The building that houses the center was transferred free of charge to the County of Orange after it was vacated by federal judges when they moved to the new Ronald Reagan Federal Courthouse in Santa Ana. The structure required major repairs and improvements, including a new roof, a heating and cooling system, and two additional courtrooms. The county paid the approximately \$1.75 million cost of construction while the superior court spent \$500,000 on furnishings and equipment.

COMPLEX CIVIL LITIGATION PILOT PROGRAM

The superior court received much of its funding for the center through its involvement in the statewide Complex Civil Litigation Pilot Program.

Created and funded by the 1999 Budget Act, the Complex Civil Litigation Pilot Program was designed to give judges specialized training and resources to help them manage complex civil cases. Orange County is one of six superior courts in California that are participating in the program; the others are the Superior Courts of Alameda, Contra Costa, Los Angeles, San Francisco, and Santa Clara Counties.

Up-to-date courtrooms are not the only technological tool courts are using to deal with complex cases. Courts in Alameda, Los Angeles, and San Francisco Counties created Web sites where

parties can view court documents, orders, and other correspondence in complex cases.

The superior courts participating in the pilot program conduct bench-bar educational events to ensure that attorneys are aware of the complex litigation projects in their counties. In June, the Superior Court of Los Angeles County coordinated with the Los Angeles County Bar Association, the Association of Business Trial Lawyers, the Consumer Attorneys Association of Los Angeles, and the Southern California Defense Counsel to present the Complex Court Symposium. At the workshop the seven judges involved in Los Angeles County's complex litigation pilot presented information to attorneys about identifying complex cases, filing a complex case, and the preferred practice in each judge's courtroom.

"We're very pleased that the program has been so well received," says Susan Goins, an attorney in the Administrative Office of the Courts' (AOC) Office of the General Counsel, who is helping to oversee the statewide Complex Civil Litigation Pilot Program. "Participating judges and attorneys are enthusiastic and eager to share practices that help bring parties together and move cases along. Applying these practices on a broad scale will benefit the courts and litigants."

In addition to educating attorneys, judges involved in the Complex Civil Litigation Pilot

Program are themselves participating in training. A specialized curriculum approved by the Judicial Council provides continuing education for pilot program judges. Twice a year, the judges designated to preside in the pilot courtrooms attend a two- to three-day workshop that addresses topics relating to complex litigation, including case management and resolution.

The AOC, in conjunction with the National Center for State Courts, is conducting a study to measure the effectiveness of the individual pilot projects and to identify the most useful practices and procedures. The AOC, which expects to submit a report to the Legislature in October 2002, hopes to assist in the statewide expansion of the pilot program's most successful practices.

"Predating the current Complex Civil Litigation Pilot Program, Orange County has been operating a complex litigation department for the last 10 years," says Judge McDonald. "Now, with our new Civil Complex Center, cases will be completed more efficiently than ever. We anticipate reducing complex trial times by as much as 20 percent." ■



Chief Justice Ronald M. George addresses the audience at the August 6 dedication of Orange County's Civil Complex Center, home to some of the most technologically advanced courtrooms in the state. Listening to the Chief Justice are (far left) Superior Court of Orange County Assistant Presiding Judge Frederick Paul Horn and Administrative Director of the Courts William C. Vickrey.

Self-Help Web Site Draws Visitors, Accolades

"Help is just a click away," proclaimed the *San Francisco Chronicle*.

"Geared to the average Joe who's intimidated by a trip to the county courthouse [or] the typical Josephine who can't or won't pay a lawyer," wrote the *Sacramento Bee*.

"Won't replace law school, but [provides resources for] millions of litigants who show up each year in the state's courts without an attorney," noted the *San Jose Mercury News*.

"Like many of the recent projects of the Judicial Council," wrote the *Los Angeles Times*, the Web site "is intended to demystify an institution long regarded as virtually impenetrable, not to mention highly intimidating, for nonlawyers."

These are just a few of the things the state's news media are saying about the new California Courts Online Self-Help Center. Launched in July, the self-help site is one of the Judicial Council's many efforts to improve access to, as well as the public's trust and confidence in, the courts.

Located at www.courtinfo.ca.gov/self-help, the new Web site offers those who go to court without attorneys legal information and guidance on topics

ranging from family law, traffic, and landlord-tenant matters to wills and name changes—as well as downloadable forms for many procedures.

"We're making courts more user-friendly for the public," says Chief Justice Ronald M. George, a longtime advocate of efforts to improve court access and fairness.

REDUCED PRESSURE ON COURT STAFFS

Statistics compiled by the Administrative Office of the Courts (AOC) show that more than 90,000 visitors to the new Web site viewed more than 309,000 pages of information in less than a month from its initial public launch.

"We can only conjecture as to how many fewer actual court visits and phone calls to harried court staff members these figures represent," says Administrative Director of the Courts William C. Vickrey, "but we can be certain that [the figures representing visits to the site] will grow exponentially over time as public awareness of the site increases."

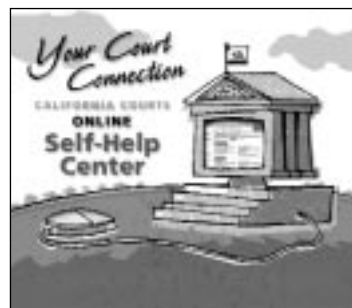
PUBLIC'S RESPONSE ENCOURAGING

In addition to the comments from the news media, the site

has generated positive feedback from the courts and public. Local courts, public libraries, social service agencies, and other referral groups are requesting informational materials produced by the AOC that are designed to create awareness and encourage use of the site. These groups are hanging up posters, handing out thousands of site maps and postcards to their clients, and expressing enthusiasm and appreciation for the site.

"My compliments on one of the most useful and complete Web sites dealing with family support issues ever," wrote Bruce Kaspari, Senior Administrator at the California Department of Justice. "I have sent a link to every county and state IV-D administrator I know. That ranges from Florida to Virginia to Texas and to every California county, as well as Guam. My thanks and congratulations on a well-thought-out Web site that will help everyone experiencing domestic [legal] issues."

"We are very excited about this site," wrote Caron Caines of Neighborhood Legal Services of Los Angeles County. "Your agency is to be congratulated. Send as many posters and postcards as you can!"



The site is also drawing national attention. "We are adding a link to your new online self-help center to our list of state advocacy resources," announced Lee Carty, Communications Director of the Bazelon Center for Mental Health Law in Washington, D.C.

Several other states also have created self-help legal Web sites. Paula Hannaford, an expert on self-help law at the National Center for State Courts, called California's site one of the best organized and most comprehensive.

● Informational materials promoting the Web site can be obtained by e-mailing pubinfo@jud.ca.gov or by calling the AOC's Publications Hotline at 800-900-5980. Graphic files for the poster and site maps can also be downloaded from the Web site's "pressroom." Comments and suggestions about the site can be given to Christine Copeland, 415-865-4225; e-mail: christine.copeland@jud.ca.gov. ■

New Members

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Judge Robert A. Dukes is Assistant Presiding Judge of the Superior Court of Los Angeles County. His judicial service also includes a term from 1988 to 1989 as presiding judge of the Pomona Municipal Court. Judge Dukes served as a Los Angeles deputy district attorney and as the senior partner in the law firm of Heimerl & Dukes before his appointment to the bench in 1987. A frequent lecturer, he has served on the faculty of CJER's Continuing Judicial Studies Program since 1999.

Presiding Judge William C. Harrison of the Superior Court of Solano County is finishing a term as an advisory member of the Judicial Council, a position he holds as president of the California Judges Association. Presiding Judge Harrison serves on the Policy Coordination and Liaison Committee and is a member of the council's Working Group on Judicial Selection. He is also a member of the Executive Committee of the Trial Court Presiding Judges Advisory Committee and serves on the faculty of CJER's Continuing Judicial Studies Program.

Judge Barbara Ann Zuñiga has served on the Superior Court of Contra Costa County since 1994. She began her judi-

cial career in 1985 when she was appointed to the Walnut Creek–Danville Municipal Court, where she served as presiding judge for three terms (1987–1988, 1991–1990, and 1993–1994). She has been an active member of the Judicial Council's Access and Fairness Advisory Committee since 1995 and is a former member of the Criminal Law Advisory Committee. In addition, Judge Zuñiga is a past-president of the National Association of Women Judges and is a founding member of the Women's Section of the Contra Costa Bar Association.

Christine Patton (advisory member) has served as Court Executive Officer of the consolidated, then unified, Superior Court of Santa Cruz County since 1994. Before her appointment as superior court administrator in 1988, she worked for two years as a research attorney for the court. Known for her leadership in the unification of the Santa Cruz County trial courts in 1998, she was awarded the Judicial Council Distinguished Service Award for Judicial Administration in 2000. Ms. Patton has served on the Trial Court Budget Commission and the Trial Court Employees Task Force. She is a member of the Judicial Council's Court Executives Advisory Committee, the Subordinate Judicial Officer Working Group, and CJER's Faculty and Planning Committee.

STATE BAR APPOINTEE

Thomas J. Warwick, founding member of the San Diego law firm of Grimes & Warwick, was named by the State Bar Board of Governors for a term on the council beginning September 15, 2001. Mr. Warwick will fill the vacancy created by Ventura attorney Michael Case, whose term expires in September. A former member of the State Bar Board of Governors, Mr. Warwick is a past-president of the San Diego Trial Lawyers Association/Consumer Attorneys of San Diego and won that group's Trial Lawyer of the Year award in 1992. The former San Diego Municipal Court awarded Mr. Warwick its Outstanding Service Award in 1999 for 26 years of service to the court.

CJA PRESIDENT

Presiding Judge Stephen D. Bradbury of the Superior Court of Lassen County (advisory member) was elected president of the CJA for the term beginning September 23, 2001, and ending October 12, 2002. Presiding Judge Bradbury has served as a CJER faculty member for the B. E. Witkin California Judicial College since 1992, teaches in the Qualifying Trial Ethics Education Program, and was a member of the Judicial Council's former Judicial Performance Procedures Advisory Committee. He has been active in CJA for many years and has



The Judicial Council named seven new members—five judges, one court executive officer, and one attorney. Four of the seven are shown here in the council's boardroom. (Left to right) Presiding Judge Stephen D. Bradbury, Superior Court of Lassen County, 2001–2002 President of the California Judges Association; Judge Barbara Ann Zuñiga, Superior Court of Contra Costa County; Justice Norman L. Epstein, Court of Appeal, Second Appellate District; and Thomas J. Warwick, Grimes & Warwick.

served on its Ethics Committee and Executive Board.

The 21 members of the Judicial Council in addition to the Chief Justice include 14 judges appointed by the Chief Justice (1 associate justice of the Supreme Court, 3 justices of the Courts of Appeal, and 10 trial court judges), 4 attorney members appointed by the State Bar Board of Governors, and 1 member from each house of the Legislature. The council also has 6 advisory members. ■